

Attorney's Docket No. 5573-142CT2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Stowell et. al.
Serial No. 10/136,582
Filed: May 1, 2002
For: *FORM A OF FLUOXETINE HYDROCHLORIDE*

Examiner: Barts, Samuel A.
Art Unit: 1621
Confirmation No. 8293

Date: November 19, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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DEC 01 2003

RESPONSE TO OFFICE ACTION

TECH CENTER 1600/2900

Sir:

The Office Action dated August 29, 2003, has been received and reviewed. Claim 19 is pending in this application. Claim 19 stands rejected. Applicants respectfully request reconsideration of the application and in view of the arguments below.

I. Double Patenting

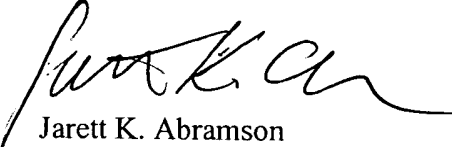
Claim 19 stands provisionally rejected under the judicially created doctrine of obviousness-type double patenting. In order to avoid further expenses and time delay, applicants elect to expedite the prosecution of the present application by filing a terminal disclaimer accompanied with this response corresponding to Claims 1-17 of U.S. Patent No. 6,316,672 and Claim 1 of U.S. Patent 6,492,556 to obviate the double patenting rejections in compliance with 37 C.F.R. §§1.321(b) and (c). Applicants' filing of the terminal disclaimer should not be construed as acquiescence to the obviousness-type double patenting rejections. Accordingly, it is respectfully submitted that this rejection now be withdrawn. The filing of this Terminal Disclaimer shall not be construed as an admission that subject matter claimed in the present application is fully disclosed in the referenced patent. The filing of the Terminal Disclaimer also should not be construed as an admission that applicants could have presented claims corresponding to those of the instant application in the referenced patent. Finally, the filing of the Terminal Disclaimer

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shall not be construed as an admission that the claims are unpatentable under the judicially created doctrine of obviousness-type double patenting or are obvious under 35 U.S.C. §103.

If questions should remain after consideration of the foregoing, the Examiner is kindly requested to contact Applicants' attorney at the address or telephone number given herein.

Respectfully submitted,

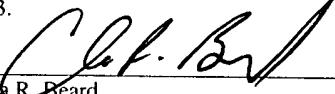


Jarett K. Abramson
Registration No. 47,376

USPTO Customer No. 20792
MYERS BIGEL SIBLEY & SAJOVEC
Post Office Box 37428
Raleigh, North Carolina 27628
Telephone: 919/854-1400
Facsimile: 919/854-1401

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 19, 2003.


Clark R. Beard